



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,281	07/31/2003	David R. Schaer	22330-RA	3768

30184 7590 05/04/2004

MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

EXAMINER

CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
----------	--------------

3712

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,281

Applicant(s)

SCHAER, DAVID R.

Examiner

Urszula M Cegielnik

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 and 27 is/are allowed.
- 6) ☒ Claim(s) 1,3,10,11,13,14,16-19, 24, and 25 is/are rejected.
- 7) ☒ Claim(s) 4-9,12,15 and 20-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Heidenreich disclose a spinning top comprising a disc (6) and a spinning head (12) comprising means (13) for engaging a disc (6) at an axially concentric position, the spinning head (12) further comprising a base (5) for frictionally engaging a planar surface as recited in claim 1; the base (5) of the spinning head (12) comprises a shallow

Art Unit: 3712

conical-shaped base (4) as recited in claim 3; the spinning head (12) comprises a shaft (3) for spinning said spinning head (12) as claimed in claim 10; a spinning head comprising a hub dimensioned, and downwardly tapered to a larger diameter, to facilitate frictional engagement of the central aperture of the compact disc, the spinning head further comprising a base for frictionally engaging a planar surface as claimed in claim 11; the spinning head (12) comprises a shallow conical-shaped base (4) as claimed in claims 3 and 13; said spinning head (12) comprises a shaft (3) for spinning said spinning head (12) as claimed in claim 14; the method steps comprising obtaining a spinning head (12) comprising means (13) for engaging a disc (6) at an axially concentric position; engaging the disc (6) with said means (13) for engaging; and, spinning said spinning head (12) with the disc (6) engaged therewith as recited in claim 16; a said the spinning head (12) comprises a shallow conical-shaped base (4) as recited in claim 17; the spinning head (12) comprises a shallow conical-shaped base (4) as recited in claim 17; the spinning head (12) comprises a shaft (3) for spinning said spinning head (12) as claimed in claim 24

Heidenreich does not disclose the disc being a compact disc as recited in claims 1 and 25.

Holenstein et al. teaches a spinning toy having a disc in the form of a compact disc.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the disc of Heidenreich with a compact disc as taught by Holenstein et al., since Holenstein et al. states at col. 1, lines 19-21 that such a

Art Unit: 3712

modification would allow compact discs received in the mail or with purchased products to be made useful.

Allowable Subject Matter

Claims 4-9, 12, 15, and 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 26 and 27 are allowed.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 703-306-5806. The examiner can normally be reached on Monday through Friday, from 6:45AM - 3:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 703-308-1745. **The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-5648.

Application/Control Number: 10/631,281

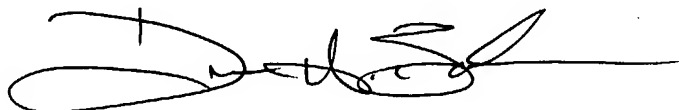
Page 5

Art Unit: 3712

Urszula M. Cegielnik

Assistant Examiner

Art Unit 3712

A handwritten signature in black ink, appearing to read 'D. H. Banks', with a long horizontal line extending to the right.

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700